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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/912,457      | 07/26/2001  | Mitsuru Itoh         | D-1092              | 5108             |

7590 10/03/2003  
KANESAKA AND TAKEUCHI  
1423 Powhatan Street  
Alexandria, VA 22314

EXAMINER

PIAZZA CORCORAN, GLADYS JOSEFINA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1733

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/912,457

Applicant(s)

ITOH, MITSURU

Examiner

Gladys J Piazza Corcoran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2003 .
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 1, 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5, 6 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group II, claims 2-6 in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1, 7, 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups I, III, IV, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 5, 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 5 recites the limitation "said bias tape" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is suggested to amend to --said bias cloth--.

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7. Claim 6 is unclear by reciting that the binder tape is provided at a neckline, periphery of a collar, a periphery of a sleeve, or a periphery of a bottom line but does not specify of what article or reference the neckline, collar, bottom line refers to. It is suggested to amend the claim to recite, --said binder tape is provided on a garment at a neckline, a periphery of a collar, a periphery of a sleeve, or a periphery of a bottom line- - as disclosed in the specification.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishimura et al. (US Patent No. 4,622,254).

Nishimura discloses a method of bonding and sewing a bias piece by providing stretchable cloth (Applicant discloses in the specification that the bias pieces are stretchable cloths; Nishimura- bias cloth fiber substrate 2a), laminating (the layers are resin impregnated and heat cured) a bias cloth (bias cloth fiber substrate 2b) on the stretchable cloth (2a), and fixing the bias cloth (2b) to the stretchable cloth (2a) so that the stretchable cloth(2a) is stably fixed with the bias cloth (2b)(the layers are stitched together; stitch yarns 7, column 4, lines 19-44; column 9, lines 1-10).

As to claim 3, Nishimura discloses that the stretchable cloth is a left to right bias cloth having warps in the left to right bias direction (positive 25-65 or 45 degrees

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direction of the fibers), and the bias cloth is a right to left bias cloth having warps in a right to left bias direction (negative 25-65 or 45 degrees direction of the fibers) and the cloths being laminated to cross each other (positive and negative degrees of direction) and sewn together (stitches 7) so that a bias stretching tension is maintained as a stable stretching.

10. Claims 2, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer et al. (US Patent No. 4,410,577).

Palmer discloses a method of bonding and sewing a bias piece by providing stretchable cloth (Applicant discloses in the specification that the bias pieces are stretchable cloths; the positive or negative 45 degree directional cloths column 4, lines 21-40), laminating (resin impregnated sheets cured; column 5, lines 55-65) a bias cloth (the other positive or negative 45 degree directional cloths) on the stretchable cloth, and fixing (sewed column 4, lines 50-68) the bias cloth to the stretchable cloth so that the stretchable cloth is stably fixed with the bias cloth.

As to claim 3, Palmer discloses that the stretchable cloth is a left to right bias cloth having warps in the left to right bias direction (positive 45 degree directional cloth), and the bias cloth is a right to left bias cloth having warps in a right to left bias direction (negative 45 degree directional cloth) and the cloths being laminated to cross each other (positive and negative directional cloth) and sewn together so that a bias stretching tension is maintained as a stable stretching (sewed column 4, lines 50-68).

As to claim 5, Palmer discloses that the bias cloth/tape is a left to right bias tape having a left to right bias stretching direction (positive 45 degree directional cloth) and

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the stretchable cloth is a right to left bias tape having a right to left bias stretching direction (negative 45 degree directional cloth), with a stretchable tape (any of the other positive or negative 45 degree directional cloths in between the other directional cloths) being interposed between the left to right bias tape and the right to left bias tape and zigzag stitches (column 5, lines 3-8, 14-19, 32-39) being formed on the stretchable tape to form a binder tape stretching in one direction.

***Allowable Subject Matter***

11. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter:

The prior art, Van Cleef (US Patent No. 2,115,254) discloses it is known to apply bias tape cloth to a stretchable cloth (stretchable in vertical, lateral and diagonal directions with unstable stretchability) (sheet rubber).

Absent any additional art, no prior art was found to show or suggest a bias adhesive core piece bonded to an entire surface of a stretchable cloth (stretchable in vertical, lateral and diagonal directions with unstable stretchability) with the bias adhesive core piece being arranged and fixed to a bias lining such that their warps cross each other and providing a bias tension to the stretchable cloth.


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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys J Piazza Corcoran whose telephone number is (703) 305-1271. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Gladys J Piazza Corcoran  
Examiner  
Art Unit 1733

GJPC